

SERVED: September 23, 1994

NTSB Order No. EA-4252

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 15th day of September, 1994

DAVID R. HINSON,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-12975
v.	)	
	)	
CARMEN J. CIAMPA,	)	
	)	
Respondent.	)	
	)	

**ORDER DENYING RECONSIDERATION**

Respondent petitions for reconsideration of NTSB Order EA-4210, served July 21, 1994. The Administrator has replied in opposition. Our order affirmed an order of the Administrator suspending respondent's private pilot certificate for 180 days for various violations in connection with respondent's piloting of a Cessna 172 in the vicinity of a "Tall Ships" regatta. We deny the petition.

To a great extent, respondent's petition repeats his position at the hearing, and he offers no new reasons why we should now accept his version of events rather than the contrary testimony offered by the Administrator's witnesses. Our decision reviewed the evidence before the law judge (including respondent's testimony) and affirmed the law judge's findings of fact based on that evidence. Part of that evidence was respondent's own admission that he was within the TCA, and part

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was credibility analysis (including whether the Beverly air traffic controllers could see respondent's aircraft from a substantial distance on that clear day). A law judge's credibility choices "are not vulnerable to reversal on appeal simply because respondent believes that more probable explanations...were put forth." Administrator v. Klock, NTSB Order EA-3045 (1989) at 4.

Other issues respondent raises are simply speculation or unconvincing for other reasons. For example, respondent argues that the police would have no way of knowing whether his transponder was operating, but air traffic control would know, when the aircraft they saw did not appear on their screens. Similarly, respondent continues to argue that there were many aircraft in the area and that he could have been misidentified, but he offers nothing to prove it was error for the law judge to prefer testimony from the State Police witness that he identified respondent's aircraft and then tracked it to its landing. There also was substantial evidence to show that respondent passed over congested residential land area, that there were many boats in the nearby water, and that there was no place to land in an emergency. Tr. at 19, 37-38.

Overall, we found in our prior decision that there is more than sufficient evidence in the record to support the law judge's findings, and respondent offers nothing in his petition that would cause us to amend our conclusions.<sup>1</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

Respondent's petition is denied.

HALL, Acting Chairman, LAUBER, HAMMERSCHMIDT and VOGT, Members of the Board, concurred in the above order.

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<sup>1</sup>Respondent also argues that the tower tape would exonerate him and the Administrator had the burden to produce it. The former is not proven and the latter is incorrect. It was respondent's burden to request preservation of the tape. There is no indication he did so.